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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/613,953

07/03/2003

Paul Tornaquindici

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER

JEANTY, ROMAIN

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

06/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/613,953	Applicant(s) TORNAQUINDICI, PAUL	
	Examiner Romain Jeanty	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 18-28 in the reply filed on March 10, 2008 is acknowledged. Claims 18-18 are pending in the application and are rejected on the merits below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kane et al (US 20030014291)

Regarding claims 18 and 25-27, Kane discloses receiving a store layout including existing products from a requestor [Paragraph 0031]; categorizing each said existing product by type [Paragraph 0033]; assigning shelf space to each said existing product, wherein said assigning includes placing each said existing product in close geographic proximity to another said existing product with the same type [Paragraphs 0034 and 0036] ; updating said store layout responsive to said assigning [Paragraphs 0038 and 0040]. Kane discloses all of the limitations above but fails to disclose transmitting said store layout to said requestor in response to said updating. However, transmitting updated data to users is old and well known in the

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communication art to allow the users to make changes to the information. It would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the disclosures of Kane et al to include transmitting the store layout to a requester because it would allow the requester to efficiently make changes to the store layout, thereby providing satisfaction to the requester.

Regarding claim 19, Kane does not explicitly disclose wherein said shelf space includes *one or more* of a refrigeration unit. Shelf space to include a refrigeration unit is old and well known in the art in order to provide more space in the refrigeration unit. It would have been obvious to a person of ordinary skill in the art to include a refrigeration unit in the disclosures of Kane in order to allocate space.

Regarding claim 20, Kane further discloses wherein said method further comprises: receiving a new product; categorizing said new product by said type; and assigning shelf space to said new product, wherein said assigning shelf space to said new product includes placing said new product in close geographic proximity to a said existing product with the same type [Paragraphs 0034 and 0036.

Claim 21 recites similar limitations of claim 18 above; therefore claim 21 is rejected under the same analysis relied upon of claim 18 above. In addition, Kane teaches a network; a user system in communication with said network; and a host system in communication with said network [i.e., facsimile, browser and GUI; Paragraphs 0012 and 0013).

Regarding claim 22. Kane further discloses a storage device in communication with said network wherein said store layout is located on said storage device [Paragraph 0024].

Regarding 23. Kane further discloses wherein said network is the Internet [i.e., facsimile,

browser and GUI; Paragraphs 0012 and 0013].

Regarding 24, The system of claim 21 wherein said network in an intranet [i.e., facsimile, browser and GUI; Paragraphs 0012 and 0013].

Claim 28 is a computer program product for grouping items in a grocery store, the computer program product comprising: a storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for performing the steps of method claim 18; therefore, claim 28 is rejected under the same analysis relied upon of claim 18.

Conclusion

4. prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Huffman et al (U.S. Patent No. 6,170,285) discloses a method of removably sealing a refrigeration unit in a vending machine having an interior space accessible through an open front covered by a door.

b. Brown (Allocation of Shelf Space: A Case Study of Refrigerated Juice Products in Grocery Products) discloses shelf allocation system.

c. Urban (An Inventory-Theoretic Approach to Product Assortment and Shelf-Space Allocation) discloses shelf allocation models.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am to 6:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Romain Jeanty/
Primary Examiner, Art Unit 3623
May 26, 2008